

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIM NO. 4:10CR169(1)
	§	APPEAL NO. 17-40986
ALEJANDRO CASILLAS PRIETO	§	

MEMORANDUM OPINION AND ORDER

On August 30, 2017, the Court entered an order denying Defendant's motion to reduce sentence. The final day for filing a timely notice of appeal was September 13, 2017. Defendant, *pro se*, filed a notice of appeal on September 20, 2017, which was dated September 11, 2017. On January 23, 2018, the Fifth Circuit remanded the case for a determination of when Defendant delivered the notice of appeal to prison officials and whether excusable neglect or good cause existed for the untimely filing of the Defendant's notice of appeal.

Rule 4(b)(1) of the Federal Rules of Appellate Procedure affords a criminal defendant fourteen (14) days in which to file a notice of appeal. Pursuant to Rule 4(b)(4) of the Federal Rules of Appellate Procedure, a district court may grant an additional thirty (30) days in which to file a notice of appeal upon a finding of excusable neglect or good cause. Since Defendant filed his notice of appeal within the additional thirty (30) day period, the Fifth Circuit remanded the case to this Court for a determination of whether the untimely filing of the notice of appeal was due to excusable neglect or good cause. This Court subsequently entered an Order on January 30, 2018, directing Defendant to file an affidavit with the Court by March 1, 2018, explaining whether the untimely filing of his notice of appeal was due to excusable neglect or

good cause.

On February 5, 2018, Defendant filed his Notice of Timely Filing of Notice of Appeal and/or Excusable Neglect for Any Delay (Dkt. #634). Defendant explained, that during the time in question, he was housed in FCI-Beaumont while that area was suffering from the impact of Hurricane Harvey. Defendant stated that the institution was on lock down and the United States Postal Service was also delayed due to the hurricane. Defendant stated that he did deposit his notice of appeal into the inmate mail system on September 11, 2017. The Court finds that the untimely filing of his notice of appeal was due to excusable neglect.

The Clerk is **ORDERED** to forward a copy of this memorandum to the Court of Appeals and to the parties in this case.

SIGNED this 15th day of February, 2018.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE